

PROPOSITION ____
I-16-2008; PAYDAY LOAN REFORM ACT

ANALYSIS BY LEGISLATIVE COUNCIL

Currently, state law regulates companies that provide deferred presentment services. Deferred presentment is a service where a company makes a loan to a customer, accepts the customer's check in return and agrees to hold the check for at least five days before presenting the check for payment or deposit. These services are more commonly known as "payday loans".

The deferred presentment licensing program in the current law is set to terminate on July 1, 2010. Proposition ____ would continue to allow deferred presentment services indefinitely because it would repeal the program's termination date.

A company or individual providing deferred presentment services is licensed by this state to provide those services and is referred to as a "licensee". Proposition ____ would expand the scope of deferred presentment services to include electronic debit agreements and would further make the following changes to the regulation of companies that provide deferred presentment services:

1. A licensee would be:
 - a. Prohibited from offering deferred presentment services for longer than 35 days.
 - b. Prohibited from entering into a new deferred presentment transaction with a customer until the next business day following the completion of any prior transaction.
 - c. Required to provide the deferred presentment agreement in English or Spanish, as requested by the customer. The agreement must contain contact information for the state agency that regulates licensees.
 - d. Prohibited from charging a fee to extend the presentment or deposit of a check, but would not be limited on the number of times the presentment or deposit could be extended.
 - e. Prohibited from charging a dishonored check fee more than:
 - i. Twice for a check returned due to insufficient funds.
 - ii. Once for a check returned due to a closed account or a stop payment order.
 - f. Required to enter into a repayment plan with the customer if the customer requests it before the deferred presentment transaction is due. The repayment plan would divide the customer's remaining balance into four substantially equal payments. A licensee would not be able to assess additional fees or interest on the outstanding balance or seek to collect any amount due except pursuant to the terms of the repayment plan so long as the customer fulfills his repayment plan obligation; otherwise, the customer could be taken to collections. A customer's obligation under the deferred presentment services agreement would be fulfilled if the repayment plan is completed. A customer would only be allowed to enter into a repayment plan once every 365 days. A customer's participation in and completion of a repayment plan would be reported to a consumer credit reporting service (an entity that assembles or evaluates consumer credit information for the purpose of providing consumer credit reports to third parties).
 - g. Prohibited from entering into a deferred presentment arrangement with a customer who has an outstanding, incomplete repayment plan. Before October 15, 2009, Proposition ____ would allow a licensee to rely on a customer's written representation that the customer does not have an outstanding, incomplete repayment plan. The superintendent of the state agency that regulates licensees would be required, by October 15, 2009, to identify consumer credit reporting

services that meet certain criteria and can be used by companies to verify whether a consumer has an outstanding, incomplete repayment plan and is eligible or ineligible for deferred presentment services.

2. A licensee would not be prohibited from making certain other loans of money or extension of credit such as consumer revolving loans and home equity revolving loans.

3. An applicant for a license would be required to maintain a minimum net worth in cash or cash equivalents of at least \$50,000 per licensed location, up to a maximum required net worth of \$1,000,000.

4. A licensee would be civilly liable under state law for violating a federal law that provides consumer credit protections for active members of the military and their families ("covered borrowers").